



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Jacob K. Javits Federal Building
26 Federal Plaza, 37th Floor
New York, New York 10278*

March 4, 2025

BY ECF AND EMAIL

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Charlie Javice and Olivier Amar*, 23 Cr. 251 (AKH)

Dear Judge Hellerstein:

The Government respectfully writes to confirm the Court's ruling with respect to Engineer-1's testimony, who is expected to testify on March 5, 2025. For the reasons set forth below, Engineer-1 should be permitted to testify that, after the defendants asked him to create fake data, he asked them, in sum and substance, whether their request was illegal.

On March 3, 2025, the Court ruled that Engineer-1 should not be permitted to testify that he asked the defendants whether the fake data request was illegal. Tr. 1017-1018. On March 4, 2025, the Court stated, in what Government understands was in reference to this same topic, "there are no restrictions on how the answer will be given." Tr. 1027. The Government agrees.

The Government intends to ask Engineer-1, in substance, what he said to the defendants and what they said in response. Engineer-1's question to the defendants about the legality of their fake data request is highly relevant to the defendants' knowledge and intent and their consciousness of guilt. Notably, the questioning of the legality of the data request happened in August 2021 and the defendants' fraudulent conduct continued for many months afterward. It is fair and extremely probative for the jury to assess the defendants' intent to continue the fraud in light of Engineer-1's question to the defendants.

Nor is the testimony unfairly prejudicial under Rule 403. Engineer-1 is testifying not to his own opinions on the legality of the defendants' conduct, but simply recounting a question that he posed to the defendants (to which the defendants responded) that is directly relevant to their state of mind, knowledge, and intent. The Government therefore respectfully submits that the question Engineer-1 asked the defendants, and their response to that question, are highly probative

and admissible.

Respectfully submitted,

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